

Schaefer, Jesse

From: Schaefer, Jesse
Sent: Thursday, July 11, 2024 1:16 PM
To: OHale, Paige (USANCE)
Cc: Jones, Christopher; Castro, Brian; Slusarski, Anna (USANCE)
Subject: Roesel v. CMS - Follow-up from Call Yesterday
Attachments: Attachment to Request for Data (revised).docx

Paige,

Thanks again for the call yesterday—and for sending your copy of the agreement. Here are our responses:

Venue Request

We don't consent to transfer the case to the D.C. District Court. We believe the Eastern District of North Carolina is the proper venue due to Roesel's residence, the location of the alleged conduct, and the residence of one or more consumers. Even assuming the Agreement's "Governing Law and Consent to Jurisdiction" clause applies to this APA action, which we do not concede, that clause does not prohibit Roesel from bringing suit in the EDNC. It isn't an exclusive venue provision. We don't think a motion to change venue on this basis would be warranted by existing law. See, e.g., *S&D Coffee v. GEI Autowrappers*, 995 F. Supp. 607, 610 (M.D.N.C. 1997) (holding that consent-to-jurisdiction clauses are different than mandatory venue provisions). We suggest reconsidering the motion to change venue.

Extension Request

We're open to a 30-day extension of time for document collection, but don't see how the document collection would be necessary for a motion to change venue. We'll conditionally consent to a 30-day extension if you commit not to file a venue change motion.

Administrative Record

As discussed on the call, please ensure that the administrative record includes, without limitation, the attached categories of documents that were referenced or alluded to in CMS's prior communications. Roesel previously requested this information, but it was not provided. One specific set of documents we believe we are entitled to see are the Marketplace Integrity Contractor Risk Assessment Models related to Roesel. Once you receive the record, please provide it to us informally. I'm hopeful that would streamline discovery process.

Lawsuits Against Individuals

We do not represent Roesel with regard to his litigation against any of the individuals. We believe he has cases in South Carolina state court: Case No. 2024CV4010800483 (Richland County) and Case No. 2024CV22311002099 (Greenville County). We don't believe CMS is involved in either case.

Please let us know if you are amenable to the conditional 30-day extension.

Regards,

Jesse

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